

III. REMARKS

1. Claims 1-45 are currently pending in this Application.
2. Claims 1-45 are patentable over Hirai et al. (U.S. Patent No. 6,339,699) in view of Ortscheid et al. (U.S. Patent No. 6,208,734) because Ortscheid is not valid prior art under 35 U.S.C. 103(c).

Under 35 U.S.C. 103(c), "[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

Both Ortscheid and Applicant's invention, were at the time Applicant's invention was made, owned by or subject to an obligation of assignment to Nokia Corporation. Thus, pursuant to 35 U.S.C. §103(c), Ortscheid is not properly prior art against Applicant's invention for purposes of 35 U.S.C. §103(a).

In support of the Examiners rejection of claims 1-45 under 35 U.S.C. 103(a) and in response to Applicants arguments against the same, the Examiner cites the filing date of Ortscheid and nothing more. Ortscheid only qualifies as prior art under 35 U.S.C. §102(e). Clearly, the requirements to disqualify Ortscheid as a reference under 35 U.S.C. §103(c) are met in the instant case. Thus, it is respectfully submitted that all the claims are patentable and should be allowed.

3. In the prior action, the Examiner has objected to the Abstract and cites MPEP 608.01(b) sub-section (C) [Language and

Format] in support of the objection. Applicant respectfully submits that the Abstract conforms to the necessary requirements. The Examiner did not state in the objection what was being objected to other than quoting the following language from the MPEP:

The abstract should be in narrative form and generally limited to a single paragraph within the range of 50 to 150 words. [It is important that the abstract] does not exceed 150 words in length since the space provided for the abstract on the computer tape by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should sufficiently describe the disclosure to assist readers in deciding whether there is a need for consulting the full patent text for details.

37 C.F.R. 1.72(b) provides the standard for the abstract. 37 C.F.R. 1.72(b) recites:

A brief abstract of the technical disclosure in the specification must commence on a separate sheet, preferably following the claims, under the heading "Abstract" or "Abstract of the Disclosure." The sheet or sheets presenting the abstract may not include other parts of the application or other material. The abstract in an application filed under 35 U.S.C. 111 may not exceed 150 words in length. The purpose of the abstract is to enable the United States Patent and Trademark Office and the public generally to determine quickly from a cursory inspection the nature and gist of the technical disclosure.

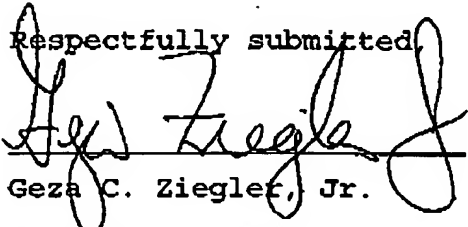
Applicant has thoroughly reviewed the abstract in the present Application and submits the abstract as originally filed meets all the requirements of 37 C.F.R. 1.72(b). There is no legal phraseology (i.e. "said" or "means") whatsoever present in the abstract nor does the abstract exceed 150 words. In fact, the abstract of the present Application is not unlike the sample abstracts illustrated in MPEP 608.01(b) sub-section (E) [Sample Abstracts]. Applicant respectfully requests that the objection pertaining to the abstract of the present Application be withdrawn or that the Examiner state specifically what is being objected to with respect to the abstract in a subsequent non-final office action.

4. Applicant's respectfully submits that there is no basis for the issuance of this Final Office Action and requests that the finality of this action be withdrawn. If a new action is needed, the new action should necessarily be a non-final action. Should the Examiner determine that the finality of this action is not to be withdrawn, Applicant respectfully requests that this submission be considered a request for reconsideration for purposes of 37 C.F.R. §1.181.

Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


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22 June 2005

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted by facsimile to (703) 872-9306 the date indicated below, addressed to the Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Date: 22 June 2005

Signature: Meaghan Baye
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